

Buchanan Ingersoll & Rooney PC

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May 14, 2015

VIA E-FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

Re: Commonwealth of Pennsylvania, et al. v. Blue Pilot Energy, LLC
Docket Nos. C-2014-2427655

Dear Secretary Chiavetta:

On behalf of Blue Pilot Energy, LLC, I have enclosed for electronic filing Blue Pilot Energy, LLC's Motion to Dismiss Joint Complaint, in the above-captioned proceeding.

Copies have been served on all parties as indicated in the attached Certificate of Service.

Very truly yours,



Karen O. Moury

KOM/bb

Enclosure

cc: Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

COMMONWEALTH OF PENNSYLVANIA, ET AL.,	:
	:
	:
Complainants,	:
	:
v.	: Docket No. C-2014-2427655
	:
BLUE PILOT ENERGY, LLC,	:
	:
Respondent.	:

**RESPONDENT BLUE PILOT ENERGY, LLC'S
MOTION TO DISMISS JOINT COMPLAINT**

TO ADMINISTRATIVE LAW JUDGES BARNES AND CHESKIS:

Respondent Blue Pilot Energy, LLC (“Blue Pilot”), by and through its undersigned counsel, files this Motion to Dismiss the Joint Complaint (the “Complaint”) filed by Attorney General Kathleen G. Kane, Through the Bureau of Consumer Protection, and Tanya J. McCloskey, Acting Consumer Advocate (the “Complainants”), pursuant to the Commission’s regulations at 52 Pa. Code § 5.103. Through this Motion, BPE respectfully requests an Order dismissing the Complaint, and in support hereof, states as follows.

INTRODUCTION

1. Blue Pilot is a competitive energy provider, which served business and residential consumers in three deregulated utility markets, including Pennsylvania. Blue Pilot has been approved for market-based rate authority by the Federal Energy Regulatory Commission (“FERC”), thereby allowing for the sale of energy, capacity, and ancillary services at market-based rates. Blue Pilot was licensed by the Pennsylvania Public Utility Commission (“Commission”) to offer electricity supply services as an electric generation supplier (“EGS”)

in Pennsylvania pursuant to a license granted by the Commission in June 2011 (the “License”). Blue Pilot is a member of PJM Interconnection LLC (“PJM”).

2. Blue Pilot offered electricity service to Pennsylvania customers from in or about January 2012 to May 4, 2015, when it surrendered its License to the Commission and requested that the Commission immediately cancel its License.¹ (A copy of Blue Pilot’s correspondence to the Commission filed on May 4, 2015 is attached hereto as Exhibit A.) As of the date of this motion, Blue Pilot currently has 175 customers in Pennsylvania. Blue Pilot began selling energy in Pennsylvania in or about January 2012. As a result of a severe and unanticipated storm that occurred in December 2013, Blue Pilot was forced to increase its rates due to increased costs from PJM. In addition, in January, February, and March 2014, extreme cold weather plus a series of generating facility shut-downs caused unprecedented electricity costs. Demand rose to all-time highs, while some generating facilities were inexplicably shut down for maintenance. This forced seldom-used and high-priced generators to come on line in order to meet that demand. Natural gas suppliers raised their rates to record highs, causing record electricity costs from generators. The market conditions that existed in the first quarter of 2014 were unprecedented; even PJM did not predict the impact of these events on consumers’ prices. Blue Pilot was unable to control any of these market forces or other unforeseeable events.

3. The Complainants filed their Complaint on June 20, 2014. Since then, Blue Pilot has defended itself in this proceeding. While Blue Pilot did not, and still does not believe that the record in this matter can support a finding that any of Blue Pilot’s marketing, advertising,

¹ On May 4, 2015, when it surrendered its license to the Commission, Blue Pilot had only 218 remaining customers in Pennsylvania.

or trade practices violated any Pennsylvania law, any of the Commission's regulations, or any Commission Order, Blue Pilot can no longer defend itself in this proceeding.

4. On May 5, 2015, Blue Pilot began sending notice to its remaining 218 customers in Pennsylvania and advised them that "based on a change in our business direction, we will no longer be servicing electricity supply customers in Pennsylvania."

II.

THE COMPLAINT SHOULD BE DISMISSED

A. Blue Pilot Has Notified Its Remaining Customers

5. As of the first quarter of 2014, Blue Pilot had effectively ceased enrolling new customers in Pennsylvania. The expense and resources incurred by Blue Pilot in responding to the Complaint and litigating the issues that it has been presented with in this proceeding have forced Blue Pilot to shut down its business. Simply put, Blue Pilot no longer has the resources to continue litigating in this proceeding.

6. Blue Pilot abandoned its License on May 4, 2015, and has ceased all of its business operations.² On May 5, 2015, Blue Pilot mailed written notice to all of its remaining Pennsylvania customers informing them that Blue Pilot was ceasing its business in Pennsylvania and that they should begin taking steps to fill their electric service needs through other sources. (Exhibit A contains a true and correct copy of the form of notice that Blue Pilot sent to its remaining Pennsylvania customers.) As of this date, Blue Pilot has only 175 customers remaining in Pennsylvania and expects that the remaining customers will move their service to other EGSs by the end of this month, if not before.

² The only other states in which Blue Pilot held a license to supply electric were Connecticut and Maryland. Blue Pilot is in the process of surrendering its Connecticut license and notified the Maryland Public Service Commission that it surrendered its license there on May 13, 2015.

B. Blue Pilot Has Resolved Nearly Every Customer Complaint

7. Independent of this proceeding, Blue Pilot has resolved nearly every complaint that it received from a Pennsylvania customer, whether they were complaints that Blue Pilot received directly from a customer or those that were referred to Blue Pilot through a Pennsylvania state agency. The only complaints that Blue Pilot has not resolved are the remaining few complaints that were filed directly with the Commission, all of which are still pending and which involve issues relating to rates that were raised during the extreme weather events of last year.

C. Blue Pilot Has Attempted to Resolve This Proceeding

8. Blue Pilot has discussed a possible resolution of this proceeding with the Complainants. While those discussions have been cordial, they have not resulted in a settlement. In light of the current procedural schedule, it is not likely that a settlement will be forthcoming in the near future.

III.

CONCLUSION

9. Blue Pilot does not believe that the record in this proceeding can support a finding that any of Blue Pilot's marketing, advertising, or trade practices violated any Pennsylvania law, any of the Commission's regulations, or any Commission Order. Blue Pilot continues to hold that belief.

WHEREFORE, on the basis of the foregoing, and in light of the fact that it has surrendered its License and no longer conducts business in Pennsylvania, BPE respectfully requests that the Administrative Law Judges grant this Motion to Dismiss to the Joint Complaint.

Respectfully submitted,

Dated: May 14, 2015

BUCHANAN INGERSOLL & ROONEY PC

By: 

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Attorneys for Blue Pilot Energy, LLC

EXHIBIT A

Buchanan Ingersoll Rooney PC

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May 4, 2015

VIA E-FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

Re: Blue Pilot Energy, LLC, Docket No. A-2011-2223888

Dear Secretary Chiavetta:

On behalf of Blue Pilot Energy, LLC (“BPE”), this is to provide notice pursuant to the Commission’s regulations at 52 Pa. Code § 54.41(b) of BPE’s plans to abandon service to customers in Pennsylvania. BPE is a licensed electric generation supplier (“EGS”) at the above-captioned docket number, authorized to serve all customer classes throughout Pennsylvania.

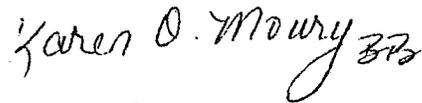
By this letter, BPE also requests that the Commission waive the 90-day notice requirement of 52 Pa. Code § 54.41(b) and accept the approximate 30-45 day notice that is being afforded to customers and affected electric distribution companies (“EDCs”). From a financial perspective, BPE is regrettably unable to continue serving its customers and is taking this measure to afford as much notice as possible to facilitate an orderly exit of the market. Given the ability of consumers to now switch to EGSs within three business days under the Commission’s new rules, BPE believes that this shorter notice will not adversely affect consumers.

As of this date, BPE is serving a total of 218 customers, which includes 153 residential customers and 63 commercial customers in the service territories of Duquesne Light Company, Metropolitan Edison Company, PECO Energy Company, Pennsylvania Electric Company and PPL Electric Utilities. Individual notices are being sent over the next few days to each of those customers, following the template shown in Exhibit A, to inform them that they are being returned to their respective EDCs consistent with their month-to-month agreements with BPE. By copy of this letter, BPE is informing all EDCs of this abandonment of service and the return of customers to default service during the month of June 2015.

May 4, 2015
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BPE therefore requests cancellation of its EGS license, effective immediately. If you have any questions or need any additional information regarding this matter, please let me know.

Very truly yours,

A handwritten signature in black ink that reads "Karen O. Moury" followed by a stylized flourish or initials.

Karen O. Moury

KOM/bb
Enclosure

cc: Office of Competitive Market Oversight
Bureau of Technical Utility Services
Citizens' Electric Company
Duquesne Light Company
Metropolitan Edison Company
PECO Energy Company
Pennsylvania Electric Company
Pike County Light and Power Company
PPL Electric Utilities
UGI Utilities, Inc.
Wellsboro Electric Company
West Penn Power Company



250 Pilot Rd. Suite 300
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Phone 800.451.6956
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www.bluepilotenergy.com

April XX, 2015

Company
Name
Address
City, State, Zip

Dear Blue Pilot Energy Customer:

Thank you for being a loyal customer of Blue Pilot Energy, LLC (Blue Pilot). We are writing to inform you about an upcoming change to your electricity supply account.

Based on a change in our business direction, we will no longer be servicing electricity supply customers in Pennsylvania. Accordingly, you should immediately select an alternative provider for your electricity supply service. Unless you choose another electric supplier, your electricity supply service will be transferred to your incumbent electric distribution company for your June 2015 billing cycle.

For information regarding offers available from other electric suppliers, please visit: www.papowerswitch.com.

If you have any questions about this transition, please contact Blue Pilot at 877.513.0246.

Blue Pilot appreciates your past business.

Sincerely,

The Blue Pilot Customer Care Department

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**COMMONWEALTH OF
PENNSYLVANIA, ET AL.**

v.

BLUE PILOT ENERGY, LLC

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Docket Nos. C-2014-2427655

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of § 1.54 (relating to service by a party).

Via Email and First Class Mail

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Barbara R. Alexander
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Dated this 14th day of May, 2015.



Karen O. Moury, Esq.